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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,174	03/15/2004	Miguel A. Leone	FINETEX 3.0-048	1052
28885	7590	01/26/2006	EXAMINER	
WEINGRAM & ASSOCIATES P.C. P.O. BOX 927 MAYWOOD, NJ 07607			OGDEN JR, NECHOLUS	
			ART UNIT	PAPER NUMBER
			1751	
DATE MAILED: 01/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/801,174	<b>Applicant(s)</b> LEONE ET AL.	
	<b>Examiner</b> Necholus Ogden	<b>Art Unit</b> 1751	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 and 25-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-24, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of claims 15-24 and 32-33 in the reply filed on 10-31-2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. The examiner construes the claims directed to a method of improving translucency and a method of enhancing translucency, as methods of making compositions by incorporating the benzoate ester(s).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 15-16 and 32-33 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ramirez et al (5,632,996).

Ramirez et al disclose a soap bar with 64% sodium tallowate; 16% sodium cocoate; C12-C15 alkyl benzoate; and water (col. 5, lines 40-63). As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, Ramirez et al is silent with respect to the translucency of the soap bars. However, it would have been obvious to the skilled artisan to expect the alkyl benzoate compound to produce a translucent effect because said compound is well known in the soap bar art as a transparent enhancer and absent a showing to the contrary, one would expect at least a translucent effect of the Ramirez et al compositions.

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8. Claims 15-16, 21-24, 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novakovic et al in view of Esposito et al (4,851,147).

Novakovic et al disclose a translucent soap bar comprising 40 to 95% by weight of a fatty acid soap; an alkyl-aryl polyoxyalkylene carboxylic acid or Nonoxynol-10 (col. 5, lines 25-31); and up to 25% by weight of water (col. 2, lines 29-69).

Novakovic et al do not teach applicant's specific benzoate ester compound.

Esposito et al disclose a transparent soap combination bar comprising fatty acid soaps; an alkyl-aryl polyoxyalkylene carboxylic acid or Nonoxynol-10; 0 to 5% benzoate esters (col. 5, lines 13-64); and up to 25% by weight of water (col. 2, lines 35-69).

It would have been obvious to one of ordinary skill in the art to include the benzoate esters of Esposito et al because Novakovic et al invite the inclusion of translucent enhancers (col. 5, lines 25-31) and Esposito et al teach that said benzoate esters are added transparency of the combination bars increases (col. 5, lines 45-50). Therefore, absent a showing to the contrary, one of ordinary skill would expect the bars of Novakovic et al to increase in translucency by adding a transparent enhancer.

"It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980).

9. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joshi et al (4,584,126) in view of Esposito et al (4,851,1487).

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Joshi et al disclose a process of making a translucent soap bar comprising 45-95% by weight of fatty acid soaps having 40-90% tallow and 10-60% coconut fatty acid soaps (col. 2, lines 29-35 and col. 8, lines 5-10); and a moisture content from 5 to 25% (col. 2, lines 65-69). Joshi et al teach that said soap bars are processed in a continuous process by mixing the soap in an amalgamator; plodding, extruded, cut and stamped to final form (col. 14, lines 6-36).

Joshi et al do not teach applicant's specific benzoic ester.

Esposito et al is relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art to include the benzoate esters of Esposito et al because Joshi et al invite the inclusion of materials to improve translucency (col. 5, lines 1-5) and Esposito et al teach that said benzoate esters are added transparency of the combination bars increases (col. 5, lines 45-50). Therefore, absent a showing to the contrary, one of ordinary skill would expect the bars of Novakovic et al to increase in translucency by adding a transparent enhancer.

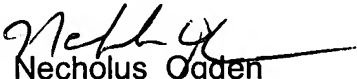
"It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." *In re Kerkhoven*, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Necholus Ogden  
Primary Examiner  
Art Unit 1751

No  
1-21-2006